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| 10/706,490 | 11/11/2003 | Felton Thomas Colwell | 9085_55/SU/1 | 7222 |
| 7590 Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903 | | | EXAMINER NGUYEN, THUY-VI THI | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/706,490

Applicant(s)

COLWELL, FELTON THOMAS

Examiner

THUY VI NGUYEN

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the applicant's communication filed on 02/06/2009, wherein
Claims 1-23 are currently pending;
Claims 20-23 have been amended;
Claim 20 is amended as followed:
A method of providing custom-colored window comprising:
a) receiving an order for a window covering, wherein the order includes a
physical sample for color-matching
b) mixing different colored inks to provide ink to match the physical sample
provided in the order;
c) cutting the window covering according to the order from a blank bulk material;
and
d) applying the ink to [a] the window covering to provide a custom-colored
window covering.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 20, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable
over PALMER ET AL (US 2002/0024479) in view of Applicant Admitted Prior Art

(AAPP) (Figures 3a and 3b labeled prior art and [0034] which states that Figures 3a and 3B – depict the prior art fabrication method, and pars. 0005-0006).

As for independent claim 20, Palmer discloses a method of providing custom-colored window comprising:

a) receiving an order for a window covering

[see par. 0055 wherein.... *receiving customized inputs/information for window covering, color, texture from the customer....*];

wherein the order includes a physical sample for color-matching [see figure 2 and pars. 0025-0026; ...*a color match of fabric swatch or wallpapers sample; colors in physical form such as preference card...*].

b) mixing different colored inks to provide ink to match the physical sample provided in the order

[figure 2, pars. 0025 and 0026; *color matching and mixing; i.e. scanning the sample with a scanner configured to identify a corresponding color (similar to custom mixing of paints...*);

d) applying the ink to a window covering to provide a custom-colored window covering [par. 0002, par. par. 0020; par. 0024 and figure 5 wherein *applying a desired decorative element (14) such as colors to window covering (12)*].

PALMER discloses the claim invention as indicated above except for the process of "cutting the window covering according to the order from a blank bulk material". (step c).

In the same scope of the invention which deals with the customizing the window covering, AAPA discloses the cutting the bulk window material as show in figures 3A-3B, pars. 0034 e.g. "*fabricator cuts the bulk material into size*" and also in pars. 0005-0006). It would have been obvious to modify the teaching of PALMER by carry out the method of customize the window covering to include the process of cutting the window covering from the bulk material as taught by AAPA in order to provide the customer with different desires and different material of the window covering as requested in the ordering.

Note: As for the term "blank-bulk material", the modified of PALMER and AAPA discloses the process of cutting the pre-colored bulk window covering material which have the same process of cutting the "blank bulk material" as recited in the instant application. The essential step is the process of cutting the window material, regardless it is pre-color material or blank material.

As for independent claim 21, Palmer discloses a method of providing custom-colored window coverings, comprising the steps of:

a) receiving an order for a window covering

[see par. 0055 wherein *receiving customized inputs (color, textures, image of window covering) from the customer*]; wherein the order includes color information [see figure 2 and par. 0025-0026; *a color match of fabric swatch or wallpapers sample; colors in physical form such as preference card*];

b) converting the color information in an electronic database address

[...This is interpreted as converting the color information in a digital format for use in the database; par. 0032, 0033, figures 1 and 2;*color match program 82 searches the database for "corresponding" colors*]

c) mixing different colored inks to provide ink comprising a custom color according to the electronic database address;

{see Figs. 2, 7, pars. 0025 and 0026; "...*color matching and mixing...*";

e) applying the ink to a neutral-colored, window covering to provide a custom-colored window covering

[par. 0002, par. pars. 0020, 0024, 0035-0036 and figure 5 wherein*applying a desired decorative element (14) such as colors to window covering (12); window covering to be customized bay be base colors i.e. white or off white....*].

PALMER discloses the claim invention as indicated above except for the process of "cutting the window covering according to the order from a blank bulk material". (step c).

In the same scope of the invention which deals with the customizing the window covering, AAPA discloses the cutting the bulk window material as show in figures 3A-3B, pars. 0034 e.g. "*fabricator cuts the bulk material into size*" and also in pars. 0005-0006). It would have been obvious to modify the teaching of PALMER by carry out the method of customize the window covering to include the process of cutting the window covering from the bulk material as taught by AAPA in order to provide the customer with different desires and different material of the window covering as requested in the ordering.

Note: As for the term "blank-bulk material", the modified of PALMER and AAPA discloses the process of cutting the pre-colored bulk window covering material which have the same process of cutting the "blank bulk material" as recited in the instant application. The essential step is the process of cutting the window material; regardless it is pre-color material or blank material.

As for claim 22, on paragraph [0038] in the current specification, AAPA discloses that the process converting the color information using an L*A*B color match system to convert a color to a mathematical address is well known in the art, as cited by US Patent 5,012,431, therefore, it would have been obvious to use the L*A*B color match system to applying on the custom window covering material.

As for claim 23, Palmer discloses wherein converting the color information comprises retrieving a mathematical address for the color from an electronic database [par. 0032-0033 and figure 7.

4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (**AAPP**)(Figures 3a and 3b labeled prior art and [0034] which states that Figures 3a and 3B – depict the prior art fabrication method) in view of PALMER ET AL (US 2002/0024479).

As for claim 1, the Description of Related Art" on par. 0006 of the specification, **AAPA** discloses a method of fabricating window coverings comprising:

a) receiving orders for custom-colored window covering

[par. 0006 wherein: *customer desiring a custom-made window covering place an order; the retail source is receiving the order*"];

b) formulating a layout for cutting the bulk window covering material

[par. 0034; figure 3a and 3b wherein *the bulk window covering material is sized and cut*] and

c) cutting the bulk window covering material according to the layout

[par. 0006 and par. 0034 wherein: *fabricator cuts the bulk material into size*.

Note: Applicant has indicated that figures 3a-b are prior art and pars. 0034 discussed the prior art figures. Furthermore, the method of formulating a layout and cutting the blank bulk window covering material of the instant application and the pre-colored bulk window covering material disclosed in AAPA would be performed the same regardless the color of the material.

d) applying color to the cut material [...par. 0006 wherein AAPA discloses *adding/applying the desired item to the custom window covering, wherein the desired item is a hardware*. **Note:** The selection of any other window feature such as desire color or other would have been obvious as mere selection other limited window covering features.

Alternatively, Palmer et al teach applying color to the material [par. 0002, par. pars. 0020, 0024, 0035-0036 and figure 5 wherein *applying a desired decorative element (14) such as colors to window covering (12)*]. It would have been obvious to modify the teaching of AAPA by carry out the method of customize the window covering to include the process of applying the color to the material as taught by Palmer for the customers' desired color choice. Since doing so color is performed readily and easily by

any person of ordinary skill in the art with neither undue experimentation, nor risk of one expected results.

As for claim 2, Palmer discloses applying two colors or varieties of color on the material [par. 0024]. Note: the teaching of duplicate parts/items/features for multiple effects is well known and would have been obvious. See *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960).

As for claim 3, AAPA discloses the window coverings are cellular fabric, a woven fabric or a non-woven fabric [par. 0005]. Alternatively, Palmer also discloses the window coverings are non-woven fabric [par. 0021].

As for claim 4, Palmer discloses wherein the orders include size, style and color information [par. 0021 and figure 6].

As for claim 5, AAPA discloses the installing hard ware [par. 0006].

As for claim 6, Palmer discloses receiving orders over an internet connection [par. 0029 and figure 1]. Note: the method of ordering using the internet, phone, mail or facsimile is common, old and well known in the art.

As for claim 7, Palmer discloses the bulk window covering material comprises a neutral-colored material [par.0021 *wherein window covering has a variety of base colors*].

As for claim 8, Palmer discloses the formulating the material window covering. [par. 0034 *wherein constructing a "wire frame" model*]. Note: the formulating the layout parameters, i.e. optimizing the layout is well known.

As for claim 9, Palmer discloses wherein optimizing the layout comprises using software constructed to create an optimum layout [par. 0034].

As for claim 10, Palmer discloses wherein optimizing the layout comprises making a visual determination to create an optimum layout [par. 0032, 0034 and figure 7 (visual interface program 76)].

As for claim 11, Palmer discloses wherein applying color to the cut material comprises an application method selected from the group consisting of spraying, brushing, rolling, pad coating, curtain coating, inkjet printing, silkscreen printing and dying [...Par. 0023; par. 0035 wherein Palmer discloses the well known applying color from inkjet printing; par. 0023].

As for claim 12, Palmer discloses wherein applying color to the cut material is accomplished manually [par. 0023, lines 16-18].

As for claim 13, Palmer inherently discloses the applying color to the cut material is accomplished by an automated well known X-Y table [par. 0030, 0034, lines 9-18, wherein *window covering can be rotated, adjusted, and view in variety of angels*].

As for claims 14-17, Palmer discloses the applying color to the window covering material including the variety of colors [pars 0024, 0025; 0035 and figure 5]. It would have been obvious to applying either one color or different colors to different surfaces of the material as a desire choice of the customer.

As for claim 18, Palmer discloses wherein the window covering material comprises a woven, knit or non-woven material [par. 0021, par. 0025].

As for claim 19, Palmer discloses wherein the non-woven materials include a nonwoven polyester materials or a synthetic material [par. 0021, par. 0025].

Response to Arguments

5. Applicant's arguments filed on 02/06/09 have been fully considered but they are not persuasive.

1) As for an argument on pages 8-9 of the remark, Applicant stated that "It would not have been obvious to modify the cited reference to result in the method defined in claim 1, because both the AAPA and PALMER fail to disclose each of the sequential steps defined in claim 1. For example, both AAPA and PALMER fails to disclose the sequential steps defined in claim 1. e.g. "cutting bulk window covering material" after "receiving orders for custom-colored window coverings." This is not persuasive for the following reasons:

AAPA discloses the method of receiving orders for custom-colored window covering as shown on par 0006; formulating the layout (pars. 0005-0006, figures 3A-3B, pars. 0034); cutting the bulk window as (figures 3A-3B, pars. 0034 e.g. "*fabricator cuts the bulk material into size*" and also in pars. 0005-0006); and applying color to the cut material (pars. 0006 e.g. "*adding/applying the desired item to the custom window covering*").

Note: The method of formulating the layout and cutting the blank bulk window covering material of the instant application and the pre-colored bulk window covering material as discloses in AAPA would be performed the same. The essential step is the

process of cutting and formulating the window material; regardless it is pre-color material or blank material.

Furthermore, As for the "applying color to the cut material" feature, the selection of any other window feature such as desire color or other would have been obvious as mere selection other limited window covering features.

Alternatively, In the same scope of the invention which deals with the customizing the window covering, PALMER et al teach applying color to the material [par. 0002, par. par. 0020; par. 0024 and figure 5 wherein *applying a desired decorative element (14) such as colors to window covering (12)*]. It would have been obvious to modify the teaching of AAPA by carry out the method of customize the window covering to include the process of applying the color to the material as taught by Palmer for the customers' desired color choice. Since doing so color is performed readily and easily by any person of ordinary skill in the art with neither undue experimentation, nor risk of one expected results.

For the reason above, the combination of AAPA/PALMER discloses each of the sequential steps defined in claim 1.

2) As for the argument on the independent claims 21 on page 9, Applicant stated that "both AAPA and PALMER fail to discloses "receiving an order for window covering", "cutting the window covering according to the order from blank bulk material". It would not have been obvious to modify the A'PA and PALMER to arriver the present application because the cited references fail to disclose these elements". This is not persuasive because the PALMER and AAPA have the same scope of invention which

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deals with the method of customizing covering window, therefore it would have been obvious to modify the PALMER and AAPA to arrive at the present application because PALMER and AAPA discloses the claim invention as indicated in claim 21 above.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./
Examiner, Art Unit 3689

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689